

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL MCCOLE,

Petitioner,

v.

PA BOARD OF PROBATION AND
PAROLE, and SUPT. GRACE,

Respondents.

Civil Action No. 04-261 Erie

MEMORANDUM ORDER

This habeas corpus action was received by the Clerk of Court on September 14, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 28], filed on February 6, 2006, recommended that Petitioner's Petition be dismissed and that a certificate of appealability be denied. Petitioner filed objections on September 18, 2006 [Doc. No. 42]. After de novo review of the petition and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 26th day of September, 2006;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Habeas Corpus is DISMISSED and a certificate of appealability is DENIED.

The Report and Recommendation [Doc. No. 28] of Magistrate Judge Baxter, filed on February 6, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge